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Situation of human rights in Cambodia

Report of the Special Representative of the Secretary-General for human rights in Cambodia, Mr. Michael Kirby, submitted pursuant to Commission resolution 1994/61

Addendum

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	3
RECOMMENDATIONS OF THE SPECIAL REPRESENTATIVE FOLLOWING THE FIFTH MISSION	4 - 47	4
A. Right to health	4 - 8	4
B. Cultural rights	9 - 10	6
C. Right to education	11 - 14	6
D. Right to work	15 - 18	7
E. Right to a healthy environment and right to sustainable development	19 - 20	8

GE.95-10939 (E)

CONTENTS (continued)

		Paragraphs	Page
F.	New laws and practices	21 - 22	9
G.	Independence of the judiciary and the rule of law .	23 - 26	10
H.	Prisons and other custodial institutions	27 - 31	11
I.	Freedom of expression and the draft press law . . .	32 - 33	12
J.	Right to be elected and to take part in government	34 - 35	13
K.	Vulnerable groups, including women, children and minorities	36 - 39	14
L.	Reporting obligations under international conventions	40	15
M.	Security issues	41 - 45	15
N.	Ongoing technical support and assistance	46 - 47	17
Annex:	Programme of the fifth mission of the Special Representative		18

Introduction

1. The present document contains the recommendations of the Special Representative following his fifth mission to Cambodia from 19 to 27 January 1995. The first part of his report (E/CN.4/1995/87) contains the recommendations formulated following the fourth visit (16-18 November 1994). Concerning the period from March to October 1994, the Commission also has before it document A/49/635. In a further addendum, the Special Representative will submit to the Commission a list of letters sent to the Government of Cambodia containing recommendations concerning specific cases.

2. The Special Representative wishes to express his sincere appreciation to the Government of Cambodia for the full cooperation extended to him during his mission. As in the past, every door which the Special Representative asked to be opened, whether in prisons, courts or hospitals, was opened to him.

3. The Special Representative records the signal honour that he was accorded in having been granted an audience with his Majesty Preah Bat Samdech Preah Norodom Sihanouk Varman, King of Cambodia, on 27 January 1995. His Majesty's position as the constitutional protector of rights and freedoms and guarantor of international treaties ratified by Cambodia and his repeated statements of commitment to the defence of the human rights of all Cambodians have lent sustained support to the work of the Special Representative and of the Centre for Human Rights, which is most gratefully acknowledged by them both.

RECOMMENDATIONS OF THE SPECIAL REPRESENTATIVE FOLLOWING THE FIFTH MISSION

A. Right to health

4. Once again the Special Representative calls attention to the need to upgrade the infrastructure of the health services of Cambodia. The approved health budget for 1995 has been decreased by 10 per cent from that of last year. On a per capita basis, this is one of the lowest rates of official health expenditure in the world. The Special Representative urges the Government to increase expenditure on health care, both in absolute and in per capita terms.

5. The highest priority should be given to providing information and protection to the Cambodian people in respect of the spread of HIV/AIDS. In addition to the measures referred to in earlier reports, the Special Representative recommends:

(a) That the highest Cambodian authorities declare the issue of HIV/AIDS to be a national cause requiring urgent and effective action by the Government;

(b) That it be suggested to His Majesty the King that he lends his support to the work of the national and regional AIDS committees in their vital work of public education and assistance in combating the spread of HIV/AIDS;

(c) That the First Prime Minister consider accepting the chairmanship of the Inter-Ministerial Committee on AIDS as a sign of its importance;

(d) That a multisectoral approach to the issue of HIV/AIDS, as recommended by WHO and other concerned agencies, be considered, promoted, developed and strengthened so as actively to involve and mobilize all sectors of Government and society; in particular, the work and role of the Inter-Ministerial Committee must be enhanced and strengthened, in particular through the establishment of an HIV/AIDS task force or control committee in all the Ministries directly concerned;

(e) That the Cambodian strategy to combat the spread of HIV/AIDS be based upon improved empirical data and that the collection of relevant data be constantly monitored - in particular in relation to HIV tests of military personnel and of the blood supply, in cooperation with the National Blood Transfusion Centre of the Ministry of Health. The monitoring of a control group of Cambodians for HIV status should be introduced without delay;

(f) That consideration be given to the establishment of free testing for HIV and venereal diseases in special clinics established in all provinces in conjunction with major hospitals. At present, there is only one such facility, in Phnom Penh. Such facilities should offer confidentiality of results and counselling for persons testing positive;

(g) That particular attention be given to HIV/AIDS education for: military and police personnel, sex workers, young people, and other persons belonging to groups at risk;

(h) That the decision to close brothels be reversed, on the grounds that this measure will only have the effect of driving prostitution underground and out of the reach of the health care authorities;

(i) That television, radio and the print media, videos and other means of communication be utilized to disseminate information concerning HIV/AIDS, its modes of transmission, its devastating consequences, the suffering caused and means of prevention, including by the use of condoms and avoidance of unsterile injections;

(j) That consideration be given to the legal regulation of the use of needles for injections by pharmacists, herbalists and practitioners of non-formal medicine. Advice on the dangers of the use of unsterile equipment should be distributed without delay to such practitioners and the general public by the Ministry of Health;

(k) That hospital personnel and private medical practitioners be alerted by the Ministry of Health concerning the particular dangers for the spread of HIV/AIDS of use of unsterile needles; in particular, information on HIV/AIDS should be included in the training of all health workers;

(l) That the Ministry of Health explore the provision by international donors of free or subsidized condoms to reduce the risk of the spread of HIV/AIDS, in particular amongst target groups most at risk;

(m) That particular attention be given to AIDS information and assistance in conjunction with the health care of Cambodian women. AIDS education should be integrated into other programmes of concern to the human rights of women and children; in particular, simple and clear information about HIV/AIDS should be included in the curriculum of secondary schools. In conjunction with human rights NGOs and women's organizations, attention should be paid to the empowerment of women in protecting themselves from exposure to HIV and in educating their children about HIV/AIDS. Particular attention should be paid to the education of the wives of military and police personnel. The Special Representative welcomes the offer of cooperation by the Co-Ministers of Defence, which should be followed up by the Centre for Human Rights;

(n) That the effective censorship on government television of accurate media advertisements calling attention to AIDS, its causes and means of prevention should cease. It is vital that such information be made available in the Khmer language and that Cambodians should not have to rely upon international media for such information so vital to life and health. Posters, comic books and leaflets on AIDS in Khmer and minority languages should be displayed or available in public places and government offices and addressed to particularly vulnerable target groups;

(o) That the Government give special attention to the sale by parents of their children into prostitution and the growing numbers of street children in Phnom Penh. The legal age of consent to sexual intercourse should be strictly enforced.

6. The donor community should mobilize adequate funding and technical assistance as soon as possible to assist the Government once it has demonstrated its full and effective support and commitment to fighting the epidemic at the highest governmental level.

7. The Government should ensure that information is readily available to Cambodian women concerning birth spacing and the means, where desired, of limiting family size and avoiding repeated or unwanted pregnancies. This information should be provided in particular to women in rural districts where more than 80 per cent of the Cambodian population live. It should take into account the high proportion of women in the present Cambodian population. It should utilize modern means of communication and be prepared in consultation with Cambodian human rights, non-governmental and women's groups.

8. The Special Representative calls attention to the upgrading of the facilities of the Monivong Hospital, particularly its infrastructure. Attention should be given to the effective use of that hospital for the treatment of prisoners and for forensic tests by the Ministry of Interior. Donors are encouraged to contribute to its rehabilitation and thereby strengthen the links between different areas of human rights.

B. Cultural rights

9. The Special Representative welcomes with great appreciation the important work of UNESCO in relation to the protection and preservation of the Angkor temples and monuments complex which he visited during his fifth mission. He commends the activities of the technical experts working on the restoration of the Angkor site provided by the Ecole française d'Extrême-Orient and the Japanese Government Team for Safeguarding Angkor. He welcomes the intended participation of experts from other countries under the auspices of the International Coordinating Committee.

10. The continued theft and export of items of the cultural heritage of Cambodia remain a matter of concern. The Special Representative again recommends the adoption of appropriate measures of policing to preserve and protect the cultural treasures of Cambodia. He welcomes the reports of the recent reduction of instances of cultural theft and the successful prosecution and conviction of several cases where the perpetrators have been apprehended. Extensive publicity should be given by the Government to such cases as a warning to others.

C. Right to education

11. The Special Representative noted once again the positive approach expressed by Government, the military, the police, judicial officers and others concerning

education for human rights. However, there are a number of additional recommendations which he wishes to make to the Government and to the Centre for Human Rights.

12. The Centre should continue to develop means for communicating human rights principles in simpler and concrete terms in the Khmer language for use in schools, for the military and police and in the general community. The Centre's activities aiming at improving the training skills of Cambodian non-governmental organizations, with a view to encouraging targeted and effective training, including police training, should also continue. The use by Cambodian non-governmental organizations such as the Cambodian Human Rights and Development Association (ADHOC), the Cambodian Institute for Human Rights, the Human Rights Task Force of Cambodia and the Ligue cambodgienne pour la promotion et la défense des droits de l'homme (LICADHO) of cartoons and comics for education of schoolchildren in human rights concepts should be further developed. Whenever possible, such activities should be conducted in cooperation with the Ministry of Education as is, for example, the work conducted on the development of human rights education curricula by the Cambodian Institute for Human Rights and teachers at all school levels. The Centre for Human Rights should continue to encourage such activities and see that they include education on the human rights protected under the Constitution, the conventions ratified by Cambodia and the law. The translation of international instruments into the Khmer language is to be welcomed and further developed. Cooperation should be developed in this field with UNESCO, UNICEF, UNHCR, ILO and WHO.

13. A feature of rural life in Cambodia is the high level of penetration of Khmer language radio and video recorders. The preparation of simplified video cassettes, including dramas with human rights themes, should be explored, in consultation with Cambodian human rights non-governmental organizations and others, as an effective means of illustrating the principles of national and international human rights law. Particular attention should be paid to the principles expressed in the Cambodian Constitution and in those international human rights conventions which Cambodia has ratified.

14. Amongst matters of particular importance for education in respect for human rights which continue to require the close attention of the Government and the Centre are education concerning:

(a) Respect for the democratic features of the Constitution and in that connection for the roles of His Majesty the King, as the ultimate guardian of human rights, of the Council of Ministers, of the members of the National Assembly and of the independent judiciary;

(b) Respect for the rights of ethnic and other minorities;

(c) Respect for the vulnerable environment of Cambodia and particularly the relevance of protecting the environment from the current dual problems of flooding and drought caused or aggravated by deforestation and other interference in the environment; and

(d) Respect for honesty in public life.

D. Right to work

15. The Special Representative welcomes the job-creation programmes in well-targeted schemes of UNDP, WFP and ILO. In particular, he commends the work of WFP, the Cambodian Red Cross and the non-governmental organization Concern in providing emergency support to internally displaced persons such as those visited by the Special Representative during his fifth mission in the Puok district of Siem Reap and in the province of Kompong Speu. The Food for Work programme and other admirable activities of WFP and other agencies are welcome, although the Special Representative recommends that Food for Work should be implemented with appropriate attention to the special difficulties faced by the aged, the handicapped, pregnant women and mothers of young children. The avoidance of a hand-out mentality and the promotion of self-respect and useful public service should continue to be important objectives of this form of international emergency assistance.

16. The Special Representative calls attention to the particular emergency caused by the succession of flooding and drought in 1994/95 which reduced significantly the production of rice in Cambodia and requiring substantial importation of rice to prevent starvation of a large segment of the population. Aggravated by the security situation and the sudden increase in the number of internally displaced persons in late 1994 (since substantially reduced), this predicament called for urgent measures by the Cambodian Government and the Cambodian Red Cross and for international assistance, most notably by WFP. The Special Representative commends WFP for its rapid response to the emergency. He welcomes the opening of the European Union Technical Coordination Office and the interest shown by the EU in technical assistance in the field of human rights, including the right to education, the right to health, assistance to refugees and Cambodian human rights non-governmental organizations.

17. The Special Representative calls attention to the short-term relief provided by WFP and others (see sect. E below) and to the need for long-term strategies to combat the man-made causes of the problems which have exacerbated the serious fall of rice production in Cambodia, previously a major exporter of rice. In providing long-term relief attention should be given to:

(a) The provision of higher yield seed, fertilizer and insecticides;

(b) The supply of appropriate pumps and well-digging equipment;

(c) The revival of overgrown, disused canals and the digging of new canals, dams and wells;

(d) A rational and reasonable exploitation of forest reserves;

(e) The introduction of a major national programme of protected reforestation.

18. The Special Representative commends the priorities advanced by FAO in its Cambodian activities.

E. Right to a healthy environment and right to sustainable development

19. The recommendations for a national environmental protection plan and for an immediate halt to illegal logging, referred to in the report to the General Assembly (see A/49/635), take on an added urgency by reason of the environmental catastrophes of 1994/95. According to advice received by the Special Representative, the flooding in late 1994, which destroyed a large part of the 1994 rice crop, may be traced in part to deforestation and the removal of natural protection against the loss of run-off water and alluvial soil. The ensuing drought has compounded the water supply problems. The major river system of Cambodia and the main lakes are now at record low levels in many places. A concerted national strategy to prevent deforestation and to conserve the natural environment will contribute to reversing the present perilous trend. The Special Representative recommends that urgent attention be given by the Government of Cambodia and the National Assembly to the steps necessary to protect the environment and to police strictly future logging in Cambodia.

20. The Centre should give consideration to the holding in Cambodia of a seminar on the rights to a healthy environment and to sustainable development. Appropriate experts of international standing should be invited to participate in such a seminar in order to call attention to the fragility of the Cambodian environment and the dangers to it of replenished logging. Such a seminar should include the participation of representatives of the Government, the military, the private sector, human rights NGOs and community groups as well as relevant United Nations agencies. Widespread publicity should be given in the Cambodian media to the findings of the seminar. Videos explaining the peril to the Cambodian environment should be produced and widely distributed throughout Cambodia for official and community education. The seminar should include attention to the revitalization of Cambodia's neglected and deteriorated irrigation system and the replenishment of its internal waterways and lakes. The Special Representative recommends urgent attention to these initiatives on the basis that emergency hand-outs are unlikely to continue indefinitely. They must be replaced by measures which address the basic causes of the problem and initiatives with long-term effects.

F. New laws and practices

21. The Special Representative repeats his call for the enactment of the new laws referred to in his last report, noting that an immigration law (but not a law on nationality and refugees) has been enacted and a draft press law introduced in the National Assembly. He refers below (see sect. K) to certain perceived defects of the Immigration Law. He welcomes reported moves to modify the draft press law, still before the National Assembly at the time of this report. The Special Representative favours the deletion from the draft press law of criminal sanctions in cases of defamation.

22. The Special Representative commends the National Assembly for its serious consideration of the draft laws for the establishment of an anti-corruption board and for the declaration of assets and interests by members of the National Assembly, Ministers and senior public officials. These proposals for laws, made by some members of the National Assembly, have not, so far, secured government support or legislative passage. The need for effective means to combat corruption in Cambodia is essential. Corruption has accompanied the rapid opening up of the country, the influx of foreign personnel and capital, the growth of the economy and endemic low salaries paid to public officials (and most private employees). Unless urgent means are taken to curb official corruption, in particular, it will seriously undermine public confidence in the institutions of Cambodia. In several jurisdictions, watchdog bodies against official corruption have been established, similar to the Independent Commission against Corruption in Hong Kong. The Special Representative believes that the establishment of the proposed anti-corruption board, modelled along similar lines and with similar powers, and composed of persons of the highest integrity, would assist the Government in sustaining the rule of law and public faith in the institutions of society. The Special Representative points out that the absence of such confidence will provide a breeding ground for political disaffection.

G. Independence of the judiciary and the rule of law

23. The Special Representative again calls attention to his concern, noted in his previous reports, for the independence of the judiciary, which has been reinforced by his consultations during his fifth mission. Amongst the most urgent needs are:

(a) The provision of adequate salaries and allowances to judicial officers. Payment of 50,000 riels per month (about US$ 20) is totally inadequate to ensure independence and exposes judicial officers to temptations incompatible with their judicial function;

(b) The provision of basic requirements - including legal texts, paper, photocopiers and funds for investigations;

(c) An appropriate measure of budgetary independence on the part of the judiciary;

(d) Training, including regular seminars and workshops on human rights, providing for the exchange of experience between judicial officers;

(e) Respect for the separation of powers. Judicial consultations with the Ministry of Justice concerning up-to-date laws and legal principles should be replaced forthwith by consultations with an experienced, independent judicial officer or body having no connection with the Government. However, the responsibility for decisions in cases must remain exclusively with the judge hearing the case and must never be delegated or surrendered to any other person;

(f) Introduction of a system of judicial mentors and advisers;

(g) Assigning of public defenders to all provinces to assist, inter alia, in the conduct of serious criminal trials;

(h) Conduct of prison visits by judicial officers (in addition to visits to prisons by prosecutors); and

(i) Provision of enhanced independence of the judicial police and military police in the proper execution of their duties according to law, and provision of improved regional infrastructure for the military courts and military prosecutors, given the high incidence of cases of abuse of power by military personnel reported to the Special Representative during his fifth mission by members of the ordinary courts. In Siem Reap province, for instance, it is officially estimated that 60 to 70 per cent of abuses can be attributed to military personnel. Consideration should also be given to the enactment of legislation permitting military police, prosecutors and tribunals to support the activities of civilian authorities in cases involving both military personnel and civilians.

24. The Special Representative recommends that a high-level interdepartmental committee be established, composed of representatives of the Ministries of Defence, the Interior and Justice, to investigate and report on judicial complaints concerning refusal or failure of military, police or other officials to execute court warrants directed at military police or political figures or members of their families. Nobody should be above the law. The Special Representative continues to receive complaints from the judiciary concerning abuse of authority and the difficulty, in practice, of bringing those responsible (except in the most grave offences) before the courts for punishment. Such an interdepartmental committee should also investigate threats to judicial officers and, where appropriate, initiate proceedings, according to law, for them to be investigated and the perpetrators punished.

25. The Centre for Human Rights should redouble its efforts, in cooperation with international donors and local and international human rights NGOs, to respond to the urgent needs of the Cambodian judiciary set out above and in earlier reports of the Special Representative. The attention of the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers should be drawn to this subject. The Centre should avail itself of every opportunity to explain publicly the reasons for, and justifications of, the independence of the judiciary.

26. In this connection, the Special Representative notes with appreciation that a law on the establishment of the Supreme Council of Magistracy has been adopted by the National Assembly. However, he is concerned that, despite attempts by individual members of the National Assembly, the law does not provide for sufficient guarantees for the independence of the judiciary; in particular, the law does not contain provisions that would ensure impartial appointment of judges, grounds for disciplinary actions against judges, the types of disciplinary actions that may be taken and the procedure for removal of judges.

Given the existing problems in the realization of separation of powers and independence of the judiciary, as noted above, the Special Representative recommends that the necessary safeguards for the independence of the judiciary be secured in the law, including by amendments, in cooperation where necessary with the Centre for Human Rights.

H. Prisons and other custodial institutions

27. The Special Representative welcomes the initiatives of the Centre in its support, guidance and assistance to the officials of the Government responsible for the conduct of prisons. He commends the generally open and increasingly enlightened and humane administration in several of Cambodia's prisons, necessarily within severe financial restraints. In particular, the Special Representative commends the initiatives taken within the Siem Reap prison:

(a) To introduce training for prisoners in literacy and other skills useful to post-prison life;

(b) To introduce sporting facilities and routines, including badminton facilities;

(c) To introduce regular video films (apparently by the use of equipment privately owned by a prison officer);

(d) To improve prison diet and to delegate cooking of prison meals to prisoners.

28. Such initiatives would be suitable for extension to other prisons. In particular, videos present a popular means for education including in such matters as prisoners' rights, court procedures and HIV/AIDS. The Centre should continue to explore these possibilities.

29. The Special Representative welcomes the move by the Ministry of Interior to draft prison regulations, including in cooperation with the Centre for Human Rights. The Special Representative recommends that the Government consult with the Centre to ensure that the regulations, when finally promulgated, fully conform to applicable human rights standards and are implemented.

30. Substantial progress is being made in the improvement of several prisons. The Special Representative wishes to congratulate the Government in this regard. He also commends the Centre for its ongoing work of advice and assistance, which should continue. He has high regard for the regular medical assistance provided by LICADHO and Médecins du monde in several prisons in Phnom Penh. He notes with appreciation the comprehensive report on prison conditions in Cambodia prepared by the Centre for Human Rights and the successful seminar for prison officials organized in Phnom Penh by the Centre in cooperation with the Ministries of Justice, the Interior and Health, which he addressed during his fifth mission. This seminar also benefited from the valuable contributions made by two

international experts, Mr. Andrew Coyle, Governor of Brixton prison in London and Dr. Gabriel Otterman of Physicians for Human Rights (United States of America).

31. The Centre should continue to monitor attention by the Government to the recommendations contained in earlier reports concerning prison improvement.

I. Freedom of expression and the draft press law

32. The Special Representative expresses concern about a number of developments relevant to the freedom of expression in Cambodia, as guaranteed by the Constitution and provided for in article 19 of the International Covenant on Civil and Political Rights to which Cambodia is a party:

(a) The most serious is the succession of attacks upon editors and journalists. Within less than eight months, three journalists were killed (one such case was possibly accidental);

(b) The closure or suspension of newspapers by order of the Government; and

(c) The inclusion in the draft press law, presented by the Government to the National Assembly, of broad provisions for criminal sanctions in cases of civil defamation and threats to national security or national institutions.

33. The Special Representative welcomes:

(a) The support expressed by His Majesty the King for the concerns expressed to the Government by the General Assembly, the Special Representative and the Centre for Human Rights, and the reported moves within the National Assembly to address those concerns;

(b) The continued high level of media freedom in Cambodia enhanced by the large number of local and international journals on sale and the extremely vigorous and often critical role they play in political commentary; and

(c) The initiatives towards an enhanced attention to journalists' ethics. The Special Representative gave the inaugural speech to the Round Table on Journalistic Ethics and Defamation, co-organized by UNESCO and the Centre for Human Rights in Phnom Penh, which was attended by a wide cross-section of local media. He welcomes the initiative of this Round Table to improve the standards of journalism in Cambodia and to encourage a greater appreciation of the fact that with the larger freedom now enjoyed by Cambodian journalists goes the responsibility for accurate reporting and for content which avoids defamation, respects privacy and dignity and avoids grossly offensive departures from generally accepted cultural and linguistic values. The Special Representative respectfully welcomes most particularly the continuous support voiced by His Majesty the King of Cambodia for a high measure of freedom of expression in Cambodia as a necessary element in a society committed to political and economic progress.

J. Right to be elected and to take part in government

34. The Special Representative expresses concern at the widely reported threats to members of the National Assembly who have expressed, both within and outside the Assembly, opinions differing from those of the Government. The right of the members of the Assembly to express their conscientiously held opinions must be vigilantly upheld and energetically safeguarded by the Government and all persons under its control. Threats or even reported threats to the persons of members of the Assembly are incompatible with the democratic nature of the Constitution. Any suggestions of such threats must be vigorously followed up by the Government. Such threats represent a direct challenge to the whole Assembly itself. In an appropriate case, the Assembly would be empowered and even obliged (separately from the Government) to take vigorous steps to defend the privileges and immunities of its members. This would be so even were its members, or a majority thereof, to disagree with the views expressed by the members who were the subject of the threats. The Special Representative recommends that the Government take immediate steps to track down the sources of threats or reported threats to members of the Assembly, and to initiate according to law the prosecution of those responsible so that they may be brought to justice for such a grave attack upon the Constitution. The Special Representative further recommends that the Assembly should itself consider initiating an investigation of its own into the reported attack on its privileges. Unless threats to members of the Assembly are resolutely and promptly dealt with, the inhibitions thereby created may strike a most serious blow to democracy in Cambodia.

35. The Special Representative, having received formal complaints of threats to lives of members of the Assembly, without prejudging the substance of such complaints, is duty bound to treat them seriously and to respond immediately. He must respond in a way that makes it clear that any such threat, if proved, is a most grave attack on the human rights not only of its subject but also of the whole body politic of Cambodia. The Special Representative, in addition to bringing his concerns in this regard to the notice of the Government, therefore, both orally during his fifth mission and in writing, has taken the following initiatives:

(a) He has brought the reported threats to the notice of the Special Rapporteur on extrajudicial, summary or arbitrary executions whose mandate includes conduct of this kind;

(b) He has called the reported threats to the notice of the Special Rapporteur on the right to freedom of opinion and expression as being relevant to a most significant attack upon the freedom of expression of a person whose privilege in that respect is universally protected by the law of Parliaments; and

(c) He has called the reported threats to the notice of the Inter-Parliamentary Union with a suggestion that it should consider, in consultation with the National Assembly, a mission to Cambodia to assist in the promotion of an understanding of the essential character of the freedom of elected members of the Assembly to express their conscientious opinions

without inhibition and free from threat of any kind, particularly to their personal safety.

K. Vulnerable groups, including women, children and minorities

36. To the recommendations concerning vulnerable groups contained in his earlier reports, the Special Representative adds the recommendations set out above, concerning the special vulnerability of women and children, with respect to information and other measures relevant to HIV/AIDS and birth spacing.

37. The Special Representative welcomes the press communiqué issued in Hanoi on 17 January 1995 following the meeting between the representatives of the Governments of Cambodia and Viet Nam concerning their determination to address immigration policy and practice in a way consistent with national legislation and international law and practices. The Special Representative also welcomes the visit to Chrey Thom on 20 January 1995, the day of his own second visit, of the Co-Ministers of the Interior of the Government of Cambodia.

38. The Special Representative notes that during his visit to Chrey Thom, family papers maintained in local government offices dating from the State of Cambodia were matched with five families who have been living at Chrey Thom for nearly two years since they took refuge there after fleeing their traditional places of residence under United Nations protection. In many cases, the family papers provide sufficient evidence that the families have been living for long periods of time in Cambodia, often for more than a generation. The Special Representative recommends that the Cambodian authorities, in close cooperation with UNHCR and the Centre for Human Rights and with the support of WFP, should, with the assistance of Cambodian human rights NGOs, make and maintain a register of families of Vietnamese origin at Chrey Thom. The Centre should also cooperate to obtain relevant documents for presentation to the Government to help establish that the families at Chrey Thom, or as many of them as can establish the fact, are (as they claim) persons with long-term residence in Cambodia, sometimes extending over several generations. In the event of the loss or confiscation of papers, the Special Representative urges that evidence be obtained from neighbours, friends or witnesses to substantiate claims of long-term residence. The Special Representative expresses the hope that earlier suggestions concerning a regular and consistent resolution of the situation of Chrey Thom, in a manner compatible with the Constitution, international conventions ratified by Cambodia and national law and as called for in the Hanoi press communiqué, will be found without further delay. The present predicament of the families, as observed by the Special Representative, involves serious restrictions of the enjoyment of human rights: the Chrey Thom community constitutes a de facto floating refugee camp with limited liberty of movement, access to work and income-generating activities, adequate food, water, medical attention and education of children, despite the commendable regular assistance provided by WFP, UNHCR, the Cambodian Red Cross, Médecins du monde and LICADHO. This situation should be resolved immediately.

39. The Special Representative welcomes the initiative announced by the Government on 30 January 1995 to establish a screening procedure aimed at determining the eligibility of the displaced persons of Vietnamese origin in Chrey Thom to return to their communes of traditional residence, under the provisions of the Immigration Law. He recommends that the Centre for Human Rights and UNHCR continue to cooperate with the Government and provide the necessary assistance as appropriate in the fair determination of the status of these persons. The Special Representative will continue to monitor progress in this regard.

L. Reporting obligations under international conventions

40. The Special Representative attaches the highest importance to the compliance by Cambodia with its reporting obligations under the international conventions to which Cambodia is a party. The Special Representative welcomes the progress being made in this regard. He expresses the hope that the reports will be promptly completed. He recommends that the Centre for Human Rights, with the assistance of the United Nations Volunteers, and UNICEF continue to offer any assistance that may be helpful to the Government of Cambodia to this end.

M. Security issues

41. The Special Representative received extensive briefings on the security situation in Cambodia which continues to inhibit the rapid rebuilding of a society adhering to the rule of law, respecting fully human rights and enjoying the benefits of economic growth.

42. A particularly worrying development in the period under review has been the attack on Western tourists visiting Cambodia for its natural attractions and cultural treasures. The Special Representative has expressed to the Government the grave concern which is felt and the hope that the perpetrators of such crimes can be tracked down and brought to justice. The Special Representative recommends that there should be no impunity for persons convicted for such crimes, which inflict great suffering on the victims and their families, represent a callous attack on unarmed tourists and greatly damage Cambodia's international reputation and economic reconstruction. The attention of the Special Rapporteurs of the Sub-Commission on impunity should be drawn to this subject.

43. The Special Representative notes the continuing efforts to clear land in Cambodia of anti-personnel and anti-tank mines. He again commends the work of all those involved in such activities, including the Cambodian Mine Action Centre, Compagnie française d'assistance specialisée, the Halo Trust and the Mines Advisory Group. He commends the Government of Cambodia for its support of such activities and foreign donors for their practical assistance. He recommends that all those involved in mine clearance in Cambodia consult with military authorities in countries having a friendly relationship with Cambodia concerning technological developments which may speed the process of clearing land, vitally needed for farming, of mines. The Special Representative was informed that

clearance of little more than one square kilometre could take up to six months. Given the extensive laying of land-mines in Cambodia, including of fresh mines, the danger of water-borne mines floating during the rainy season into land previously "cleared" and the constant flow of casualties, the current state of clearance calls out for more radical solutions. What ingenious and gruesome technology has provided, a new technology should be devised to relieve in countries such as Cambodia, Afghanistan and Angola. The Special Representative recommends that the Secretary-General, in conjunction with other initiatives he is taking in respect of the revision of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (1990) and the elaboration of a draft amended protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II), should give consideration to a high-level meeting of technical experts to advise on new technological means that could be devised greatly to accelerate the clearance of mines in Cambodia and other countries where they continue to cause such frightful suffering, insecurity and economic deprivation.

44. The Special Representative commends to the Government and National Assembly the proposed law to ban unilaterally the importation and use of mines by all agencies of the Government.

45. The Special Representative notes the report to him of the disappearance of large numbers of commune and village chiefs, teachers and other personnel who have been captured in the Siem Reap and other north-western provinces, apparently by units of the National Army of Democratic Kampuchea ("Khmer Rouge"). The suffering of the families concerned was emphasized to the Special Representative at the highest level during his fifth mission. The Special Representative would welcome any initiative taken by the ICRC to intervene in order to establish the whereabouts and secure the release of the persons concerned. He requests the Centre to consider the ways in which a comprehensive list of such persons could be established and maintained, in cooperation with the Cambodian authorities. Such a list should be provided to the ICRC for investigation and humanitarian relief so far as that is possible. He requests the Secretary-General to consider ways in which appropriate contact might be made with the Party of Democratic Kampuchea (the political party of the "Khmer Rouge") or its representatives to request, in the name of humanity, that the whereabouts and fate of the disappeared personnel be investigated and reported to the international community and for the relief of relatives concerned.

N. Ongoing technical support and assistance

46. The Special Representative once again commends the Centre and its officers, including the UNVs, for their dedicated work in the period under review. He again pays tribute to the vital work of the Cambodian human rights non-governmental organizations.

47. The Special Representative notes the delays in the provision of financial and other support to the Cambodia office of the Centre for Human Rights as

reported by the Centre in its report to the General Assembly (A/49/635/Add.1, paras. 8, 60, 63-71). He urges that active and creative steps be taken within the administration of the United Nations Office at Geneva to meet the difficulties there outlined which are so discouraging to the effective work of the Centre.

Annex

PROGRAMME OF THE FIFTH MISSION OF THE SPECIAL REPRESENTATIVE

(19-29 January 1995)

Thursday, 19 January

Meeting with Mr. Benny Widyono, Representative of the Secretary-General in Cambodia

Meeting with the staff of the Cambodia office of the Centre for Human Rights, including on the right to housing

Inauguration of the European Union Technical Coordination Office in Cambodia

Friday, 20 January: mission to Chrey Thom

Visit to Chrey Thom (Vietnamese border) with MPs, the Chairman of the National Assembly Commission for the Protection of Human Rights and Reception of Complaints, representatives of UNHCR, WFP, ICRC, Médecins du monde, LICADHO, ADHOC and members of the press

Saturday, 21 January: mission to Siem Reap

Meeting with representatives of United Nations agencies, international and local aid and human rights NGOs; briefing on IDPs, right to food, right to health, right to security

Meeting with staff members of UNESCO, Ecole française d'Extrême-Orient and Japanese Government Team for Safeguarding Angkor at the Angkor complex archaeological site

Sunday, 22 January: mission to Siem Reap (continued)

Visit to the provincial prison

Visit of IDPs in Puok district

Meeting with Mr. Tun Chay, Governor of Siem Reap province, and the Vice-Governors

Monday, 23 January: mission to Siem Reap (continued)

Meeting with Mr. Phlong Chhlam, President of the Tribunal

Meeting with Mr. Tun Chay and the Deputy Commander of the Fourth Military Region

Briefing on de-mining in Siem Reap by Halo Trust

Meeting with Mr. Sam Rainsy, MP for Siem Reap

Meeting with Ms. Saumura Thioulong and two other Cambodian personalities on women and AIDS

Tuesday, 24 January: right to health

Visit to Monivong Hospital

Meeting with the Interministerial Committee for HIV/AIDS Prevention and Control

Meeting with Cambodian Women's Development Association and Khmer Student Association

Meeting with sex workers and medical workers in Tuol Kork community clinic

Meeting on health and AIDS at WHO office with WHO staff and other United Nations AIDS officers

Meeting with Minister of Health

Wednesday, 25 January: right to food

Meeting with Mr. Hun Sen, Second Prime Minister

Meeting organized by the National Assembly with MPs from provinces affected by food shortages, and WFP and FAO

Lunch with Mr. Kem Sokha, Chairman of the National Assembly Commission on Human Rights, and Mr. Son Chhay, MP for Siem Reap

Visit to affected villagers in Kompong Speu province

Meeting with ambassadors

Reception at the Cambodia office of the Centre for Human Rights for the Special Representative to meet with diplomats, United Nations agencies' representatives, Directors of Cambodian human rights NGOs, and publishers and editors of local newspapers

Thursday, 26 January: military reform and justice - meetings with the Government - meeting with NGOs

Meeting with General Sao Sok, Military Prosecutor

Meeting with Mr. Tea Banh and Mr. Tea Chamrath, Co-Ministers of Defence

Meeting with Mr. Om Radsady, Chairman of the National Assembly Commission on Information and Foreign Affairs, and several members of the Commission as well as members of the National Assembly Commission for the Protection of Human Rights and Reception of Complaints

Joint meeting at the Ministry of Foreign Affairs with the Inter-Ministerial reporting subcommittees on the International Covenant on Civil and Political Rights and on the Convention on the Right of the Child, with Mr. Chem Snguon, Minister of Justice, Mr. Uch Kim An, Secretary of State for Foreign Affairs, Mr. Bjorn Ljungqvist, representative of UNICEF, and Mr Daniel Prémont, Director of the Cambodia office of the Centre for Human Rights

Speech at the seminar on the state of Cambodian prisons (22-27 January) organized by the Centre for Human Rights in cooperation with the Ministries of Justice, the Interior and Health, with the participation of Mr. Andrew Coyle, Governor of Brixton Prison (United Kingdom) and Dr. Gabriel Otterman, Physicians for Human Rights (United States of America)

Meeting with Mr. Ney Thol, President of the Military Tribunal, and court officials

Meeting with Cambodian human rights NGOs

Meeting with the Khmer Journalists' Association

Friday, 27 January: freedom of information - audience with the King

Meeting with Mr. Anthony Kevin, Ambassador of Australia, and Mr. Martin Collacott, Ambassador of Canada

Inaugural speech at the joint UNESCO-Centre for Human Rights Round Table on Journalistic Ethics and Defamation

Audience with His Majesty the King, Preah Bat Samdech Preah Norodom Sianouk Varman

Press conference at Phnom Penh Airport